

DIVISION OF MINED LAND RECLAMATION		PROCEDURE NO.	3.3.03
PROCEDURES MANUAL		ISSUE DATE	September 26, 2002
SUBJECT	Approving Regrading	Section	Enforcement
		Last Revised	3/12/97

OBJECTIVE AND INTENT:

To ensure the Field Inspector properly inspects and documents regrading approval.

PROCEDURES:

Regrading Inspection :

The Inspector shall inspect the final regraded areas of the permit. During this inspection, the Inspector shall:

- visually check for acid, toxic, or dark material(s).
- if deemed necessary, take a representative soil sample to determine the soil pH.
- visually check to see that drainage patterns are stable for the regraded areas.
- determine whether the regrading was done in compliance with the permittee's approved plans and applicable regulations. The Inspector shall note that -
 - If approximate original contour (AOC) is not achieved on steep slope areas, backfilling and regrading is not acceptable unless approval can be obtained for a revised plan that allows for an AOC variance in accordance with 4 VAC 25-130-785.16.
 - If the final regraded slope for AOC areas is steeper than 27 degrees and was not previously approved to be steeper than 27 degrees, regrading approval may be given if the permittee provides a written demonstration that a minimum static safety factor of 1.3 has been achieved in accordance with Section 4 VAC 25-130-816/817.102(a)(3) and 4 VAC 25-130-816/817.107(e). For slopes less than 27 degrees, no demonstration for stability is needed.
 - For previously mined areas where the approved plans show total highwall elimination but the highwall was not completely eliminated, regrading approval can be given by the inspector if the permittee has used **all** spoil material generated by the remining operation (including other reasonably available material) to eliminate the highwall to the maximum extent technically practical. If this results in a final regraded slope steeper than 27 degrees, and it was not previously approved to be steeper than 27 degrees, the permittee shall provide a written demonstration that long-term stability has been achieved and the remaining highwall remnant is stable in accordance with Section 4 VAC25-130-816/817.106(b)(2 and 3).
 - For previously mined areas where the approved plans show total highwall elimination but the highwall was not completely eliminated **and all spoil material generated by the remining operation or other available material was not used**, the inspector may approve regrading only if the permittee provides a written demonstration that reasonably available spoil has been used to eliminate the highwall to the maximum extent technically

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practical while maintaining a minimum safety factor of 1.3 for the backfilled areas in accordance with Section 4 VAC 25-130-816/817.107(e).

The Inspector shall take photographs of the regraded areas to document the site conditions and to ensure the backfilling and regrading is consistent with the applicable requirements of 4 VAC 25-130-816.102 through 107 or 4 VAC 25-130-817.102 through 107. The photographs shall be maintained in the Inspector's copy of the permit file.

Regrading Approval :

When the Inspector is satisfied that regrading has been properly accomplished, regrading may be approved. This approval shall be documented on the inspection report (**DMLR-ENF-044**). The following example statement may be used:

The regrading on the area from (location) to (location) is satisfactory, provided that the area is not redisturbed, that the soil pH and fertility level will support the planned post-mining land use, and that the area does not become severely eroded.

The Inspector shall note or mark the date of approval and approximate regrading location(s) on his or her most current copy of the permit map.

Backfill Settlement and Highwall Re-exposure

Beginning one year after the completion of the backfilling, the Inspector shall examine the backfilled areas and document the occurrence and extent of any settlement. The Inspector's report shall identify the areas where:

- settlement is less than 3 feet (designated as **HS**).
- settlement is in excess of 3 feet (designated as **HW**).
- stability problems exist.
- land use problems may exist.
- repairs made and the highwall was eliminated (designated as **HE**).

After the 1st year evaluation of the backfilled areas, the Inspector shall revisit the areas (during the quarterly complete inspections) to document the occurrence and extent of any subsequent settlement. The Inspector may instruct the permittee to perform reclamation.

- If the re-exposed highwall is the result of instability, mitigation will include the re-elimination of the affected highwalls as soon as possible.
- If after 18 months from backfill completion, it is determined that the settlement or re-exposed highwall interferes with implementation of the post mining land use, the permittee will be given 45 days to commence mitigation. If the permittee fails to mitigate the settlement within this period, an NOV may be issued.
- If after 18 months from the backfilling, the Inspector observes areas of settlement in excess of 3 feet, the inspection report will notify the permittee that final bond release could not occur until the settled areas in excess of 3 feet are re-eliminated.

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The DMLR considers highwall re-exposure in excess of 3 feet to be an impediment to the post-mining land use.

Whenever the permittee is required to eliminate the re-exposed highwall, the Inspector must evaluate the disturbance to determine if any of the subject area must have the period of bond liability extended. The Inspector will consider the nature and extent of the re-disturbance, impact upon drainage, effect on the land use, and the impact to the surrounding area. If more than 10 per cent of the applicable area is significantly disturbed and impacted, the full period of extended liability will be required for the area.

The DMLR will not require the permittee to eliminate settlement of 3 feet or less when:

- the permittee had originally eliminated the highwall.
- a certification of a professional engineer that certifies that the highwall is stable and no stability problems exist.
- there are no other existing violations associated with the highwall backfill.